

## United States Postal Service

## § 961.6

or a hearing based solely on written submissions;

(5) If the employee requests an oral hearing, a statement of the evidence he or she will produce which makes an oral hearing necessary, including a list of witnesses, with their addresses, whom the employee expects to call; the proposed city for the hearing site, with justification for holding the hearing in that city; and recommended alternative dates for the hearing; which should be within 40 days from filing the Petition;

(6) A statement of the grounds upon which the employee objects to the Postal Service's determination of the existence or amount of the debt, or to the proposed offset schedule. This statement should identify and explain with reasonable specificity and brevity the facts, evidence, and legal arguments, if any, which the employee believes support his or her position;

(7) Copies of all records in the employee's possession which relate to the debt; and

(8) If an employee contends that the Postal Service's proposed offset schedule would result in a severe financial hardship on the employee and his or her spouse and dependents, an alternative offset schedule, and a statement and supporting documents indicating for the employee and his or her spouse and dependents for the one year preceding the Postal Service's notice and for the repayment period proposed by the employee in his or her alternative offset schedule, their total income from all sources; assets; liabilities; number of dependents; and expenses for food, housing, clothing, transportation, medical care, and exceptional expenses, if any.

(c) The employee may, if necessary, file with the Recorder, additional information as a Supplement to the Petition on or before the thirtieth (30th) calendar day following the employee's receipt of the Postal Service's "Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act."

[51 FR 1251, Jan. 10, 1986, as amended at 63 FR 66053, Dec. 1, 1998]

### § 961.5 Effect of Petition filing.

Upon receipt and docketing of the employee's Petition for a hearing, the Recorder will notify the Postmaster/Installation Head and the General Counsel that the Petition has been filed and that pursuant to section 5 of the Debt Collection Act, a timely-filed Petition for a hearing stays further collection action.

### § 961.6 Filing, docketing and serving documents; computation of time; representation of parties.

(a) *Filing.* All documents relating to the Debt Collection Act hearing proceedings must be filed by the employee or the General Counsel with the Recorder. (Normal Recorder office business hours are between 8:15 a.m. and 4:45 p.m., eastern standard or day-light saving time as appropriate during the year.) The Recorder will transmit a copy of each document filed to the other party, and the original to the Hearing Official.

(b) *Docketing.* The Recorder will maintain a docket record of Debt Collection Act hearing petition proceedings and will assign each employee Petition a docket number. After notification of the docket number, the employee and General Counsel should refer to it on any further filings regarding the Petition.

(c) *Time computation.* A filing period under the rules in this part excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or legal holiday, in which event the period runs until the close of business on the next business day.

(d) *Representation of parties.* After the filing of the Petition, further document transmittals for, or communications with, the Postmaster/Installation Head or Postal Service shall be through their representative, the General Counsel, or, if an appropriate notice of appearance is filed, the General Counsel's designee. If a notice of appearance by an attorney authorized to practice law in any of the United States or the District of Columbia or a territory of the United States is filed in behalf of an employee, further transmissions of documents and other communications with the employee shall be made

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through his or her attorney rather than directly with the employee.

### **§ 961.7 Answer to Petition and Supplement to Petition.**

If the employee's Petition states reasons to support the employee's position, within 15 days from notice of the Petition, the General Counsel shall file an Answer to the Petition, and attach all available relevant records and documents in support of the Postal Service's claim, and a list of witnesses the Postal Service intends to call if an oral hearing is granted. If the employee files a Supplement to the Petition, the General Counsel, within ten (10) calendar days from the filing of the Supplement with the Recorder must file any Supplemental Answer and records to support the position of the Postal Service.

### **§ 961.8 Hearing Official authority and responsibilities.**

The Hearing Official shall provide a full and fair hearing. The proceedings must be expedited to ensure issuance of the final decision no later than 60 days after the filing of the employee's hearing Petition. The Hearing Official's authority includes, but is not limited to, the following:

- (a) Ruling on all offers, motions or requests by the parties;
- (b) Issuing any notices, orders or memoranda to the parties concerning the hearing proceedings;
- (c) Using telephone conferences with the parties to expedite the proceedings. A memorandum of a telephone conference will be transmitted to both parties;
- (d) Determining if an oral hearing should be held; and setting the place, date and time for the hearing or the taking of testimony by telephone conference;
- (e) Administering oaths or affirmations to witnesses, and conducting the hearing in a manner to maintain discipline and decorum while assuring that relevant, reliable and probative evidence is elicited on the issues in dispute, but irrelevant, immaterial or repetitious evidence is excluded;
- (f) Establishing the record in the case;

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(g) Issuing the final decision orally or in writing no later than sixty (60) days after the filing of the employee's hearing Petition. When an oral decision is rendered, a written confirmation will thereafter be sent to the parties. The decision must include the determination of the amount and validity of the alleged debt and, where applicable, the repayment schedule. It should also include findings and reasons.

### **§ 961.9 Effect of Hearing Official's decision; motion for reconsideration.**

The Hearing Official's decision shall be the final administrative determination on the employee's debt or repayment schedule. No reconsideration of the decision will be allowed unless a motion for reconsideration is filed by either party within 10 days from receipt of the decision and shows good reasons for reconsideration. Reconsideration will be allowed only in the discretion of the Hearing Official. A motion for reconsideration by the employee will not operate to stay the collection action authorized by the Hearing Official's decision.

### **§ 961.10 Waiver of employee rights.**

The Hearing Official may determine the employee has waived his or her right to a hearing and the employee's pay shall be offset in accordance with the Postal Service's offset schedule, if the employee:

- (a) Files a Petition for hearing after the end of the 15-day period allowed by the Act for filing the Petition, and fails to demonstrate to the satisfaction of the Hearing Official good cause for the delay;
- (b) Has received notice to appear at an oral hearing but fails to do so without showing circumstances beyond the employee's control;
- (c) Fails to file required submissions or to comply with orders of the Hearing Official, and the failure makes it difficult or impossible to hold the hearing or to issue the decision within the statutory time;
- (d) Files a withdrawal of his or her Petition for a hearing with the Recorder.